

## **EXHIBIT 2**



**United States**

**v.**

**David Miller and Minnesota  
Independent Cooperative**

# Defendants' Knew Their Drug Supply Was Unsafe

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**From:** Mike Cassola [mailto:mcassola@micoop.com]  
**Sent:** Thursday, October 08, 2009 9:10 AM  
**To:** 'david miller'; mjohnson@micoop.com  
**Cc:** 'James Russo'  
**Subject:** Prezista 400 MG Bottle with Combivir in it  
**Importance:** High

Gentlemen,

We are running into this scenario way too often lately. We have another case of the wrong drug in the wrong bottle. In this instance, it is Combivir (according to the Albert the pharmacist at Maxi Care) in a Prezista 400 mg container. This situation gets worse as the customer to whom it was dispensed has already taken two of the wrong pills....not sure where this is going but will keep you posted if anything of interest surfaces.

One other piece of data that makes this situation even more suspect is that the manufacturer of Combivir is GSK and the manufacturer of Prezista is Tibotek. How does a pill from one manufacturer get into the bottle from a different manufacturer? According to the customer, the foil on the mouth of the bottle was intact.

This has got to be the 4th time something like this has happened (i.e., Spectrum, First Choice and Monroe are three I can think of) and I'm a bit concerned about what's going on with our suppliers.

I don't mean to blow this out of proportion but Steven from Monroe said he's never seen wrong item in wrong bottle before in his 20 year history as a pharmacist.

If anyone has some insight as to why this is occurring, please bring me up to speed as I am completely clueless.

# Defendants' Knew Their Drug Supply Was Unsafe

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----- Original Message -----

From: Mike Cassola <mcassola@micoop.com>

To: 'david miller' <david.miller@etailnetwork.com>

Cc: 'James Russo' <jrusso@micoop.com>

Sent: Thu Jul 08 05:38:53 2010

Subject: FW: Credit Memo for Return

This could get ugly given the fact that we sent her a bottle of Atripla with Centrum Silver in it.

# Defendants' Knew Their Drug Supply Was Unsafe

## RE: Product Tampering Notification

Dear Pharmacist:

Gilead Sciences, Inc. is writing to inform you that pharmacies have reported three instances in which patients have returned bottles of Gilead products after discovering that the bottles contained a different product than the product listed on the label. In the first two cases, two different patients, who received their prescriptions from the same pharmacy in New York, returned their bottles of Viread<sup>®</sup> (tenofovir disoproxil fumarate) (lot 000148 and lot SHCD1) reporting the bottles contained tablets that did not match the appearance of Viread tablets. The product in the bottles was confirmed to be Abbott's Norvir<sup>®</sup> (ritonavir) 100 mg tablets. In addition, the cap present on one of the Viread labeled bottles was not the cap which Gilead used for that lot of Viread product.

There is no point in Gilead's manufacturing and distribution of Viread in which Abbott's Norvir could have been placed into bottles labeled as containing Viread.

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In the third case, a different pharmacy in New Jersey reported that a patient returned a bottle with an Atripla<sup>®</sup> (efavirenz/emtricitabine/tenofovir disoproxil fumarate) label (lot 02010144) reporting that the bottle contained tablets that did not match the appearance of Atripla tablets. The product in the bottle was confirmed to be Complera<sup>®</sup> (emtricitabine/rilpivirine/tenofovir disoproxil fumarate) tablets.

Based on our investigation, in all three cases, we have concluded that the pharmacies purchased the products that were labeled as Gilead Viread and Atripla from Minnesota Independent Cooperative (MIC). MIC does not buy product directly from Gilead, and we are unaware of the source of the product obtained by MIC.

# Wrong Drug in Bottle Is Not Normal

- Paul O'Leary
- Dr. Michael Ignacio (Cal. Board of Pharmacy)
- Alesia Wilbekin (Gilead)
- Justin Chan
- Judy Rumpler
- Matt Gauck
- Michael Cummins  
(AmerisourceBergen)

# Diverted Drugs, By Their Nature, Are Dangerous

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A. Well, again, the medications are very involved. I'm not a pharmacist, but we recognize the importance of medications are a science. And when a doctor has prescribed a certain item for a certain patient for a condition that they have, it's very exact and the intention is for them to have it. Once you get outside the supply chain and you don't know where the product is coming from, the efficacy of a drug, how it's been stored, it would be -- jeopardize a patient's safety if we didn't follow those -- those steps.



# Diverted Drugs, By Their Nature, Are Dangerous

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A. We want to make sure that the medication is coming from a legit wholesaler, like from a location, and also make sure that the product is, you know, not compromised or, like -- basically for the safety of the patient, make sure everything is, you know, correct.

# Miller and MIC Deceived and Cheated Their Customers

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MINNESOTA INDEPENDENT COOPERATIVE  
2980 Commers Drive  
Suite 200  
Eagan, MN 55121

## STATEMENT IDENTIFYING PRESCRIPTION DRUG PRODUCT ORIGIN

Item: 1171-06 PLAVIX 75 MG TAB 30 BMS

Lot #'s: 9B53502

Exp Date: 03/12

MINNESOTA INDEPENDENT COOPERATIVE Inv #: 4242

The following statement regarding the above referenced item is being supplied pursuant to the requirements of Section 503 (e)(1)(3) of the Federal Food, Drug & Cosmetic Act ("the Act"), as amended, 21 U.S.C. & 353(e)(1)(3)

Prior Wholesale Sales Date: 08/31/09

Quantity: 2

Purchased from: AMERISOURCEBERGEN (VALCA)  
1300 MORRIS DRIVE #100  
CHESTERBROOK, PA 19087

Authorized distributor: ☒ Yes ☐ No

# Miller and MIC Deceived and Cheated Their Customers

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MINNESOTA INDEPENDENT COOPERATIVE  
2980 Commers Drive  
Suite 200  
Eagan, MN 55121

## STATEMENT IDENTIFYING PRESCRIPTION DRUG PRODUCT ORIGIN

Item: 8701-10 TRUVADA TAB 30 GILEAD  
Lot #'s: 001862 Exp Date: 02/17

MINNESOTA INDEPENDENT COOPERATIVE Inv #: 26749

The following statement regarding the above referenced item is being supplied pursuant to the requirements of Section 503 (e)(1)(3) of the Federal Food, Drug & Cosmetic Act ("the Act"), as amended, 21 U.S.C. & 353(e)(1)(3)

Prior Wholesale Sales Date: 01/13/2014  
Quantity: 1  
Purchased from: B & Y WHOLESALE DISTRIBUTORS  
PO BOX 2839  
CAROLINA, PR 00984  
Authorized distributor: X Yes        No

# Miller and MIC Deceived and Cheated Their Customers

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**From:** Sumeet Singh [<mailto:PM@diabeticcare.com>]

**Sent:** Friday, September 13, 2013 5:39 PM

**To:** David Miller; 'David Polfliet'; Jim Russo

**Subject:** MIC Website Update

Hey guys,

Below please find refreshed content for the MIC website. We might get a bump of traffic from new customers and I want to make sure that at least the info is correct – FAQs have us listed in Mendota Heights. Let me know if you guys have any input, thanks

How are you able to offer such great prices for drugs?

We combine different strategies including premier sourcing, low overhead, bulk buying power and strict inventory control.

# Miller's Lies Mattered—and He Knew It

- Paul O'Leary would not have bought diverted drugs
- Stephanie Kornechuk would not have bought diverted drugs
- Justin Chan would not have bought diverted drugs
- Judy Rumpler would not have bought diverted drugs
- Matt Gauck would not have bought diverted drugs

# Fraud Instructions

First, the defendant knowingly participated in or devised a scheme or plan to defraud, or a scheme or plan **for obtaining money or property** by means of false or fraudulent pretenses, representations, or promises. Deceitful statements of half-truths may constitute false or fraudulent representations;

Second, the statements made or facts omitted as part of the scheme were material; that is, **they had a natural tendency to influence, or were capable of influencing, a person to part with money or property;**

Third, the defendant acted with the intent to defraud; that is, the intent to deceive and cheat; and

Fourth, the defendant used, or caused to be used, the mails or private commercial interstate carriers to carry out or attempt to carry out an essential part of the scheme.

# Count 13: Money Laundering Conspiracy

- Coconspirators:
  - David Miller
  - Yusef Yassin
  - Mark Johnson
  - Fernando Galan
  - Artur & Mihran Stepanyan
  - Artin Sarkissians
  - Peter Kats

## Count 13: Money Laundering Conspiracy

1. An individual conducted a financial transaction involving property that represented the proceeds of mail and wire fraud;
2. The individual knew that the property represented the proceeds of some form of unlawful activity; and
3. The individual knew that the transaction was designed in whole or in part to conceal or disguise the nature and control of the proceeds.



# Count 14, Conspiracy, Part 1: Unlicensed Wholesale Distribution

First, the defendant engaged in wholesale distribution of a prescription drug;

Second, the defendant was not licensed in the state from which the drug was distributed; and

Third, the defendant acted knowingly.

“Wholesale distribution” means the distribution of a prescription drug to a person other than a consumer or patient, or the receipt of a prescription drug by a person other than the consumer or patient.

## Count 14, Conspiracy, Part 2: False Statement

First, the defendant used a writing that contained a false statement;

Second, the writing was made in a matter within the jurisdiction of the United States Food and Drug Administration;

Third, the defendant acted willfully; that is, the defendant acted deliberately and with knowledge both that the statement was untrue and that his or her conduct was unlawful; and

Fourth, the writing was material to the activities or decisions of the United States Food & Drug Administration; that is, it had a natural tendency to influence, or was capable of influencing, the agency's decisions or activities.

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# Count 14, Conspiracy, Part 2: False Statement

July 12<sup>th</sup> 2012

Mark Josephs, Esq.  
Assistant Director  
Consumer Protection Branch  
United States Department of Justice  
450 Fifth Street, N.W.  
Sixth Floor South  
Washington, DC 20001  
[Josephs, Mark [Mark.Josephs@usdoj.gov](mailto:Mark.Josephs@usdoj.gov)]

Dear Mr. Josephs:

Minnesota Independent Cooperative (MIC) understands that you have asked our legal counsel for a copy of a pedigree that relates to a sale of Viread to Premium Pharmacy Inc. (Premium) of Flushing, New York. MIC has sold Viread to Premium on a number of occasions. Based on our understanding of what you requested from our legal counsel, it appears that you are looking to obtain a pedigree that relates to a May 2012 sale of Viread to Premium. I have attached to this email a copy of one of the pedigrees that relates to the May 2012 sale.

Sincerely,

James Russo  
Vice President of Operations

# Count 14, Conspiracy, Part 2: False Statement

MINNESOTA INDEPENDENT COOPERATIVE  
2980 Commers Drive  
Suite 200  
Eagan, MN 55121

STATEMENT IDENTIFYING PRESCRIPTION DRUG PRODUCT ORIGIN

Item: 0401-01 VIREAD 300MG 30 GILEAD

Lot #'s: 000205 Exp Date: 07/16

MINNESOTA INDEPENDENT COOPERATIVE Inv #: 13295

Prior Wholesale Sales Date: 05/15/12  
Quantity: 1  
Purchased from: B & Y WHOLESALE DISTRIBUTORS  
PO BOX 2839  
CAROLINA, PR 00984

Authorized distributor: X Yes        No

